

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN F. ELLIS,

Plaintiff,

v.

GABRIEL WILLIAMS, et al.,

Defendants.

No. 2:23-cv-1962 WBS SCR P

ORDER AND FINDINGS &
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. On July 31, 2025, the undersigned issued findings and recommendations that plaintiff's motion for preliminary injunction (ECF No. 29) be granted in part and that defendants be ordered to return plaintiff to a DPW cell or equivalent that will provide him with meaningful access to toileting and grooming facilities. (ECF No. 35.) On August 4, 2025, defendants filed a notice that plaintiff is being housed in Unit D3A-129L, a designated DPW cell, as of 1953 hours on July 31, 2025. (ECF No. 36; Declaration of E. Campos, ECF No. 36-1.)

Plaintiff's transfer to a designated DPW cell demonstrates that there is not currently irreparable harm. In light of this change in circumstances, the undersigned vacates the findings and recommendations dated July 31, 2025, and issue new findings and recommendations regarding plaintiff's motion for preliminary injunction.

1 Accordingly, IT IS HEREBY ORDERED that the findings and recommendations
2 regarding plaintiff's motion for preliminary injunction (ECF No. 35) are VACATED.

3 In addition, IT IS HEREBY RECOMMENDED that plaintiff's motion for preliminary
4 injunction (ECF No. 29) be DENIED due to the current absence of irreparable harm.

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one (21)
7 days after being served with these findings and recommendations, any party may file written
8 objections with the court and serve a copy on all parties. Such a document should be captioned
9 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
10 objections shall be served and filed within fourteen (14) days after service of the objections. The
11 parties are advised that failure to file objections within the specified time may waive the right to
12 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: August 6, 2025

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16 SEAN C. RIORDAN
17 UNITED STATES MAGISTRATE JUDGE
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